

APPENDIX J

**DRAFT
PERMIT TEMPLATE**

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The Corps has prepared this template to flesh out the details of the Lakebelt mitigation plan. This is a **Draft** template as of 14 December 1999. This template is **NOT** in any way an expression that the Corps has decided to issue permits or, if issued, the permits would have these conditions: by our regulations that decision can only be made after obtaining public comments and reviewing those comments. Changes will occur as we consider concerns raised in the public comments. This is intended to provide a starting point for discussions with the applicants during the permit review process.

Permittee:

Permit Number:

Issuing Office: U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: Placement of temporary and permanent fill for excavation activities for the purpose of limestone quarrying.

The work described above is shown on the attached plans numbered.

Project Location:

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on {50 years}. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature and mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. The permit expiration date represents the total duration of mining in the Lake Belt Area. However, the decision to authorize this activity relies on estimates of expected performance of restoration under the Lake Belt Mitigation Plan (Plan). Because the Plan is based on estimates and because there likely will occur circumstances that cannot be predicted, the authorization under this permit is subject to review of the Plan periodically. The first review date is _____ years after date of issuance. Activities authorized by this permit may not occur after the review date until this permit instrument is modified to (1) establish the next review date and (2) reflect any adjustments needed to the Plan. The permittee shall submit a request for modification six months prior to the review date.
2. Section _____, Florida Statutes establishes a per-ton-mitigation fee assessment on limestone sold from the Lake Belt Area. That assessment will be used by the South Florida Water Management District, under guidance of an interagency committee, for the acquisition, ecological restoration and management of lands and other activities to compensate for the ecological impacts from mining activities within the Lake Belt Study

Area. The permittee shall pay assessments on all material excavated no matter the location beginning the effective date and in the manner established by Statute.

3. Compensatory mitigation for the ecological impacts related to the removal of plant communities by the activities authorized by this permit will be provided by acquiring, restoring and managing lands within the Pennsuco and other locations. The decision to authorize this activity was based on: (1) estimates of the quantity of ecological impacts and of ecological restorations (expressed in terms of functional units using a calculation process that incorporated the Wetland Rapid Assessment Methodology (WRAP)); and, (2) projections that indicate the cumulative units of restoration will equal the units of loss. The estimates and projections are based on the total footprint of mining in the Lake Belt Study Area, essentially calculating an average for all prospective permittees. Section _____, Florida Statutes, establishes a per-ton-mitigation fee assessment on limestone sold from the Lake Belt Study Area that will be used by the South Florida Water Management District, under direction of an interagency committee, for the acquisition, ecological restoration and management of lands. The restoration work will focus on the Pennsuco but, because the Pennsuco footprint does not provide mitigation for all the projected mining and because additional mitigation opportunities in the Lake Belt Mitigation Service Area [map] will become available, the interagency committee will also acquire, restore, and manage lands outside of the Pennsuco.

a. The permittee shall submit a report to the interagency committee on (date) annually of the number of acres of plant community cleared from activity authorized by this permit. The interagency committee will add together the acres reported by all permittees in the Lake Belt Area and multiply the sum by 0.45 to arrive at the number of units of ecological loss.

b. For work within the Pennsuco, the interagency committee will multiply the number of acres that have been acquired and restored (as reported by the South Florida Water Management District) by 0.18 to arrive at the number of units of ecological lift. For this purpose, restored means the physical removal of exotic plants or other similar work has been completed and the only remaining work is management activities such as monitoring of growth, removal of newly germinated exotics, etc.

c. For work at sites other than the Pennsuco, the interagency committee will multiply the number of acres acquired and restored by a unit/acre multiplier to arrive at the number of units of ecological lift. (The unit/acre multiplier will vary depending on the nature of the site and restoration and will be developed by the interagency team based on calculation process using WRAP equivalent to the calculation process used for the mining (0.45) and Pennsuco (0.18) multipliers.

d. The permittee shall make best efforts to ensure the interagency committee submits a report to this office on (date) annually providing a projection of whether the total loss and total lift will balance by the expiration of this permit (fifty years). As part of the projection, the report will also: (1) compare the actual costs of achieving the 0.18 units of restoration to those used in the estimates that established the assessment; and,

(2) discuss whether the expected funds to be received under the remaining years of the assessment will be sufficient to acquire and restore sufficient units of lift to offset the expected future quantity of loss.

e. If the projection is that the units of restoration will not equal the units of loss, the interagency committee will submit to this office a recommendation for changes to the Lake Belt Mitigation Plan. This office will analyze this report to determine any adjustments are needed in accordance with special condition 1.

f. [insert provision for impacts to wetland areas created or restored as mitigation for earlier permits.]

4. Compensatory mitigation for the ecological impacts related to the increases in groundwater seepage across the _____ Levee/Canal attributed to the increase in the area of deep lake from the activities authorized by this permit will be provided by construction of structures either independently or in coordination with those that may be authorized under the Central and Southern Project for Flood Control and Other Purposes (Restudy). Section _____, Florida Statutes, states the per-ton-mitigation fee assessment on limestone sold from the Lake Belt Study Area may be used for all structural modifications to enhance hydrology of the Lake Belt Area and also requires submission by the Miami-Dade County Lake Belt Implementation Committee by December 31, 2000 of a recommendation on the plan to implement this construction.

a. If there is not a plan to implement this construction, or if the plan is not recognized by the Legislature as being funded out of the fee-per-ton assessment, then none of activity authorized by this permit can occur after the expiration of the first review period until the permit is modified to incorporate requirement for the permittee to independently provide the structures.

b. Once the design of the structures is established, the permittee shall use best efforts to cooperate with the other permittees in the Lake Belt Study Area and the interagency committee to: (1) arrange for a hydrologic model that estimates changes in the hydropatterns of the Pennsuco and other areas used for compensatory mitigation under Special Condition 2 above; and, (2) submit to this office a recommendation on the adjustment to this permit, if any, of the 0.18 units per acre multiplier used in Special Condition 2b above (and the multipliers established for areas outside the Pennsuco).

5. Not later than the date of the expiration of this permit (including future extensions or modifications), the permittee shall have completed construction of a littoral shelf along the entire perimeter of the deep cut, wherever that perimeter may be at the permit expiration date. "Construction completed," means the placement/excavation of limestone and the placement muck in the configuration of cross-section B-B of the enclosed drawings.

a. If the Dade County Lake Belt Plan Implementation Committee recommends in their Phase II Report a configuration of littoral shelves different from cross-section B-B

and if the Phase II Plan is implemented by legislation, then the permittee and this office will discuss an appropriate modification to the permit. For the littoral shelf, the permittee shall submit the following reports.

b. Upon completion of the construction, but not later than the expiration date of the permit, the permittee shall submit an initial monitoring report. This report shall provide: a post construction as-built topographic survey, including the location and elevation of all excavation and fill, including a narrative of the source and handling of the muck and panoramic photos of the completed work.

c. The work in the littoral areas shall be considered successful when the canopy of native wetland plant species reaches 80 percent cover (that is, the sum of the survivors of those planted plus those recruited). **** [DERM permit language on success criteria to be incorporated here...goal is to have same success criteria in both documents]

d. The permittee shall subsequently submit a monitoring report three years after the submission of the initial report. The monitoring report shall include a plan view describing the vegetative community; a list of species and their percent cover for each community; the percent cover of wetland and of exotic plant species; a description of any unusual climatic or other factors; a brief evaluation of the wetland functions (for example, wildlife utilization, growth and reproduction of vegetation, and condition of the site, including impacts from adjoining uses); and, panoramic photos from the same points as where the photos for the initial report. If the littoral shelf has not reached the criteria for success, the monitoring report shall also include a plan of planting, excavation, monitoring, changes in control elevations, and/or other actions to achieve success and, after that plan or a modification is accepted by this office, the permittee will implement the plan.

6. The permittee shall avoid disturbance of archeological sites _____. This restriction can be removed for any of the sites upon completion of all of the following.

a. Submission of a Phase II archeological survey to this office. The permittee shall submit, prior to the performance of the survey, a survey design for review and approval.

b. Submission to and approval of a mitigation plan by this office for those sites if this office: (1) determines that the site is eligible for inclusion in the National Register based on information from the Phase II survey; and (2) determines that mitigation other than strict avoidance is acceptable. This office will make these determinations in consultation with the Florida Department of State Division of Historic Resources and the Advisory Council on Historic Preservation in accordance with Law.

7. [Permittee required to coordinate with Miami-Dade County requirements for wellfield protection.....]

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

☐ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).

☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Extensions.** General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

(PERMITTEE) (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

(DISTRICT ENGINEER) (DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and

the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree-SIGNATURE) (DATE)

(NAME-PRINTED)

(ADDRESS)
